

Amended MDR Tracking Number: M5-04-2472-01 (Previously M5-04-0166-01)

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June 17, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 09-12-03.

This AMENDED FINDINGS AND DECISION supersedes all previous Decisions rendered in this Medical Payment Dispute involving the above requestor and respondent. The Medical Review Division's Decision of 03-03-04 was appealed and subsequently withdrawn by the Medical Review Division applicable to a Notice of withdrawal of 04-08-04. An Order was rendered in favor of the Requestor. The Requestor appealed the Order to an Administrative Hearing with regards to services that were denied payment by the Medical Review Dispute Officer.

The IRO reviewed office visits, office visits with manipulations, muscle testing, range of motion measurements, function capacity exam, gait training, review of MMI/IR report only, myofascial release, joint mobilization, and therapeutic procedures rendered from 12-02-02 through 06-09-03 that were denied based upon "U".

The Medical Review Division has reviewed the IRO decision and determined that the **requestor prevailed** on the **majority** of the issues of medical necessity including office visits, office visits with manipulations, muscle testing, range of motion measurements, functional capacity exam, gait training, myofascial release, joint mobilization, and therapeutic procedures. Review of the IRO decision determined although the IRO found the MMI/IR evaluation medically necessary, documentation presented to MDR did not meet the criteria in E/M Ground Rule XXII.D.2 to qualify for reimbursement of 99455-RP due to the billing activity exceeding the MFG. Therefore the requestor **did not prevail** on review of MMI/IR report. Upon receipt of this Order and in accordance with §133.308(r)(9), the Commission hereby orders the respondent and non-prevailing party to **refund the requestor \$460.00** for the paid IRO fee. For the purposes of determining compliance with the order, the Commission will add 20-days to the date the order was deemed received as outlined on page one of this order.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

Based on review of the disputed issues within the request, the Medical Review Division has determined that **medical necessity was not the only issue** to be resolved.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 12-18-03, the Medical Review Division submitted a Notice to requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
11-12-02	95851	\$38.00	\$0.00	No EOB	\$36.00	MFG MGR (I)(E)(4)	Soap notes support delivery of service. Recommended Reimbursement \$36.00
11-15-02	97122	\$37.00	\$0.00		\$35.00	MFG MGR(I)(A) (10)(a)	Soap notes support delivery of service. Recommended Reimbursement \$35.00
01-07-03	99080-73	\$15.00	\$0.00			Rule 133.106(f)	Respondent raised no issues of denial. Reimbursement recommended in the amount of \$15.00
02-07-03	99080-73	\$15.00	\$0.00				Respondent raised no issues of denial. Reimbursement recommended in the amount of \$15.00
03-10-03	99080-73	\$15.00 (1 unit)	\$0.00	V	\$15.00	Rule 133.106(f)	Service was denied with a V denial code for medical necessity with peer review. The work status report is a required TWCC report, therefore the service is reviewed as a fee issue. The requestor submitted a copy of the work status report however date of service billed was 03-10-03 and report indicates date of visit as 03-11-03. No reimbursement recommended.
04-07-03	99080-73	\$15.00 (1 unit)	\$0.00	V	\$15.00	Rule 133.106(f)	Service was denied with a V denial code for medical necessity with peer review. The work status report is a required TWCC report, therefore the service is reviewed as a fee issue. The requestor did not submit a copy of the work status report. No reimbursement recommended.
05-07-03	99080-73	\$15.00 (1 unit)	\$0.00	V	\$15.00	Rule 133.106(f)	Service was denied with a V denial code for medical necessity with peer review. The work status report is a required TWCC report, therefore the service is reviewed as a fee issue. The requestor submitted a copy of the work status report. Reimbursement is recommended in the amount of \$15.00

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
03-10-03 through 05-05-03 (25 DOS)	97545-WH	\$2,560.00 1 unit @ \$102.40 X 25 DOS)	\$0.00	V	\$51.20  (NON-CARF)	MFG MEDICINE GR (II)(E)(4)	Respondent denied with denial code V for medical necessity with peer review. Preauthorization was obtained therefore services will be reviewed according to the Medical Fee Guideline. Pursuant to Rule 133.301(a)...The insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatment(s) and/or service(s) for which the health care provider has obtained preauthorization..". Requestor submitted relevant information to support delivery of service. Recommend reimbursement in the amount of \$51.20 X 25 DOS = \$1,280.00
03-10-03 through 03-27-03 (14 DOS)	97546-WH	\$4,300.80 (6 units @ \$307.20 X 14 DOS)	\$0.00	V	\$51.20  (NON-CARF)	MFG MEDICINE GR (II)(E)(4)	Respondent denied with denial code V for medical necessity with peer review. Preauthorization was obtained therefore services will be reviewed according to the Medical Fee Guideline. Pursuant to Rule 133.301(a)...The insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatment(s) and/or service(s) for which the health care provider has obtained preauthorization..". Requestor submitted relevant information to support delivery of service. Recommend reimbursement in the amount of \$51.20 X 6 units X 14 DOS = \$4,300.80
03-28-03	97546-WH	\$153.60 (3 units)	\$0.00	V	\$51.20  (NON-CARF)	MFG MEDICINE GR (II)(E)(4)	Respondent denied with denial code V for medical necessity with peer review. Preauthorization was obtained therefore services will be reviewed according to the Medical Fee Guideline. Pursuant to Rule 133.301(a)...The insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatment(s) and/or service(s) for which the health care provider has obtained preauthorization..". Requestor submitted relevant information to support delivery of service. Recommend reimbursement in the amount of \$153.60

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MAR\$	Reference	Rationale
04-21-03 through 05-05-03 (10 DOS)	97546-WH	\$1,024.00 (2 units @ \$102.40 X 10 DOS)	\$0.00	V	\$51.20 (NON-CARF)	MFG MEDICINE GR (II)(E)(4)	Respondent denied with denial code V for medical necessity with peer review. Preauthorization was obtained therefore services will be reviewed according to the Medical Fee Guideline. Pursuant to Rule 133.301(a)...The insurance carrier shall not retrospectively review the medical necessity of a medical bill for treatment(s) and/or service(s) for which the health care provider has obtained preauthorization..". Requestor submitted relevant information to support delivery of service. Recommend reimbursement in the amount of \$102.40 X 10 DOS = \$1,024.00
TOTAL		\$8,143.40					The requestor is entitled to reimbursement of <b>\$6,874.40</b>

This Findings and Decision is hereby issued this 1<sup>st</sup> day of September 2004.

Debra L. Hewitt  
Medical Dispute Resolution Officer  
Medical Review Division

### ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Decision is applicable for dates of service 11-12-02 through 06-09-03 in this dispute.

This Order is hereby issued this 1<sup>st</sup> day of September 2004.

David R. Martinez, Manager  
Medical Dispute Resolution  
Medical Review Division

DRM/dlh  
Enclosure: IRO Decision

December 17, 2003

Texas Workers' Compensation Commission  
Medical Dispute Resolution  
Fax: (512) 804-4868

Re: MDR #: M5-04-0166-01  
**New MDR #: M5-04-2472-01**  
IRO Certificate No.: IRO 5055

## **REVISED REPORT**

### **Revision to Disputed Services & Rationale**

\_\_\_ has performed an independent review of the medical records of the above-named case to determine medical necessity. In performing this review, \_\_\_ reviewed relevant medical records, any documents provided by the parties referenced above, and any documentation and written information submitted in support of the dispute.

The independent review was performed by a matched peer with the treating health care provider. This case was reviewed by a physician who is certified in Chiropractic Medicine.

### **Clinical History:**

This male claimant fractured his left femoral condyle in a work-related accident on \_\_\_. He was under approximately two months of conservative care, then completed five weeks of work hardening. The records indicate slow but steady progress of the patient up until the latter part of February 2003, at which time he began the work hardening program.

### **Disputed Services:**

Office visits, office visits w/manipulation, muscle testing, range of motion measurements, functional capacity exam, gait training, review of MMI/IR report only, myofascial release, joint mobilization, and therapeutic procedures during the period of 12/02/02 through 06/09/03.

### **Decision:**

The reviewer disagrees with the determination of the insurance carrier and is of the opinion that the services and treatments in dispute as stated above were medically necessary in this case.

### **Rationale:**

The patient did experience slow but steady progress up until the latter part of February 2003. At that time, he had not reached MMI, and an FCE was appropriate to determine his status. As noted, he had not yet reached pre-accident status, and the next logical step was a work hardening program. Subsequent office visits, muscle testing, range of motion testing and FCE's were medically necessary and reasonable to evaluate the patient's progress. The office visits with manipulations and gait training were medically necessary and reasonable as of the end of February 2003.

The follow-up appointments during this phase of care were also medically necessary and reasonable, as the treating doctor should stay current on the patient's progression. Finally, the office visits after the MMI date of 05/23/03 were necessary due to the fact that MMI in this case means that the patient is permanently impaired and should receive whatever care is medically reasonable and necessary. Review of the MMI/IR by the doctor was also reasonable and necessary.

I am the Secretary and General Counsel of \_\_\_\_ and I certify that the reviewing healthcare professional in this case has certified to our organization that there are no known conflicts of interest that exist between him and any of the treating physicians or other health care providers or any of the physicians or other health care providers who reviewed this case for determination prior to referral to the Independent Review Organization.

Sincerely,